



**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL
PROPERTY)**

Case reference : **LON/00AW/LDC/2024/0196**

Property : **2 – 3 Egerton Gardens Kensington
London SW3 2BS**

Applicant : **The Wellcome Trust Limited**

Representative : **Ringley Law**

Respondents : **The leaseholders of the property as set
out on the list attached to the
application**

Representative : **N/A**

Type of application : **For dispensation under section 20ZA of
the Landlord & Tenant Act 1985**

Tribunal member : **Mr A Parkinson MRICS**

Date of decision : **09 October 2024**

DECISION

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P:PAPER REMOTE. The Directions provided for the application to be determined on the papers unless any party requested a hearing. No party has requested a hearing. The applicant has filed a bundle in support of the application.

Introduction

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for *retrospective* dispensation with the consultation requirements in respect of stack pipe repair works required for 2-3 Egerton Gardens London SW3 2BS (“the property”).
2. The Applicant is the freeholder of the property and the Respondents are the long leaseholders. The property is a period residential block containing fourteen flats.
3. Ringley Ltd (trading as Ringley Chartered Surveyors) are the managing agent (“the managing agent”) for the property.
4. By an application dated 19 July 2024, the Applicant applied for retrospective dispensation from the statutory duty to consult in respect of stack pipe repair works. The application has been issued by Ringley Law as the Applicant’s representative.
5. On 6 August 2024 the Tribunal issued Directions. By 14 August the Applicant was directed to send to each of the leaseholders (and any residential sublessees) and to any recognised residents’ associations, by email, hand delivery or first-class post: (i) copies of the application form (excluding any list of respondents’ names and addresses) unless already sent by the applicant to the leaseholder/sublessee (ii) if not already detailed in the application form a brief statement to explain the reasons for the application (iii) these directions; and (iv) display a copy of these in a prominent place in the common parts of the Property. On 16 August 2024 the Applicant’s representative confirmed that it had complied with this Direction.
6. By 30 August 2024, any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and send it both to the Tribunal and to the Applicant. The leaseholder was further directed to send the Applicant a statement in response to the application. No leaseholder has returned a completed Reply Form opposing the application.
7. The Applicant has provided a Bundle of Documents (76 pages) (“the bundle”) in support of the application. This includes various documents including the lease for Flat 1 at 3 Egerton Gardens, a total of three witness statements. Two witness statements from the managing agent and one from the applicant’s representative.

8. In his Witness Statement of 14 August 2024 at page 21 of the Bundle, Mr. Okosi of Ringley Ltd (Managing Agent) states: “The works that is required are repairs to the stack pipes at the property which has split causing two flats to become inhabitable and damage to the communal area. The splits that have been discovered require replacing.” “The works are of an urgent nature.” And “There was no consultation due to the urgency of the works.” Additionally Mr Okosi states “The contractor completing the works is Rosco and Perlini. The scaffolding to assist the works was put up on the 12th July and these set of works have been completed and cost £4,194 including VAT. The contractor has recommended further stack pipes repairs around the property. They will need to be replaced urgently as they will cause damage and the work will cost an additional £36,000 including VAT”.
9. The bundle contains a Rosco and Perlini report (page 25 of the bundle) and Rosco and Perlini estimate (page 32 of the bundle), both dated 9 July 2024. The report contains photographs of visible defects within the stack pipe. The estimate outlines the cost of repairs totalling £4,194 including VAT, including £2,400 for scaffolding and £1,680 for pipe repairs with a note that the £1,680 is an estimated cost pending investigation via scaffolding.
10. The bundle does not contain any further reports, estimates or quotations in respect of the £36,000 of additional works referred to within Mr Okosi’s witness statement of 14 August 2024.
11. Within the bundle (page 34) there is a Rosco and Perlini quotation dated 3 September 2024 totalling £38,220 plus VAT for remedial works in flat 3 following the leak, which sets out extensive works to Flat 3 including replacement flooring, decoration and cleaning.
12. A further Rosco and Perlini quotation at page 41 of the Bundle also dated 3 September 2024 totals £2,495 plus VAT and includes costs for plaster repairs, decoration and waste disposal to the communal area.
13. It is not clear if the Applicant intends proceeding with the two Rosco and Perlini quotations dated 3 September for remedial works following the leak as service charge costs or via alternative means such as an insurance claim. The tribunal has only considered the stack pipe repair works, in line with the application form submitted by the Applicant for this specific dispensation case.
14. Given the limited scope of the application, the Applicant may wish to consider its position in relation to the remedial works following the leak to Flat 3 and the communal area.

Relevant Law

11. Section 20ZA (1) of the Act provides:

“Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

12. **The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements in relation to the stack pipe repair works. This application does not concern the issue of whether any service charge costs will be reasonable or payable.**

Decision

12. As directed, the Tribunal’s determination “on the papers” took place on 9 October 2024 and was based solely on the documentary evidence filed by the Applicant. As stated earlier, no objections had been received from any of the Respondents nor had they filed any evidence.
13. The relevant test to be applied in an application such as this has been set out in the Supreme Court decision in ***Daejan Investments Ltd v Benson & Ors*** [2013] UKSC 14 where it was held that the purpose of the consultation requirements imposed by section 20 of the Act was to ensure that tenants were protected from paying for inappropriate works or paying more than was appropriate. In other words, a tenant should suffer no prejudice in this way.
14. The issue before the Tribunal was whether dispensation should be granted in relation to the requirement to carry out statutory consultation with the leaseholders regarding the stack pipe repair works. The Tribunal is not concerned about the actual cost that has been incurred.
15. The Tribunal is satisfied that it is reasonable to grant retrospective dispensation from the statutory consultation requirements in relation to the stack pipe repair works. This is justified by the urgent need for the works. There is no suggestion that any prejudice has arisen.
16. The Directions make provision for the service of the Tribunal’s decision. The Tribunal will email a copy of its decision to the Applicant. The Applicant is responsible for serving a copy of the Tribunal’s decision on the Respondents.
17. It should be noted that in granting this part of the application, the Tribunal makes no finding that the scope and estimated cost of the repairs are reasonable.

Name: Mr A Parkinson MRICS **Date:** 9 October 2024

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 20

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount, which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in

accordance with, the regulations is limited to the amount so prescribed or determined.

Section 20ZA

- (1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long-term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.